

**United States Bankruptcy Court  
Central District of California  
Riverside  
Judge Mark Houle, Presiding  
Courtroom 301 Calendar**

**Wednesday, September 15, 2021**

**Hearing Room 301**

11:00 AM

**6:12-20957 Justin Hoang Tran and Xuan Suong Ho Thi Tong**

**Chapter 7**

**#1.00 CONT. Debtors' Motion to Reopen Chapter 7 Case**

From: 7/21/21

(Placed on calendar by order entered 7/1/21)

EH\_\_

**[Tele. appr. Roman Vu, rep. Debtors]**

Docket 30

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Justin Hoang Tran

Represented By  
Roman Quang Vu

**Joint Debtor(s):**

Xuan Suong Ho Thi Tong

Represented By  
Roman Quang Vu

**Movant(s):**

Justin Hoang Tran

Represented By  
Roman Quang Vu

Xuan Suong Ho Thi Tong

Represented By  
Roman Quang Vu

**Trustee(s):**

Larry D Simons (TR)

Pro Se

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Central District of California  
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**Hearing Room 301**

11:00 AM

**6:17-17761 Ghazi Khan Ghori**

**Chapter 7**

**#2.00** CONT. Motion to Avoid Lien Judicial Lien with College Square, L.P. and Notice of Motion **(Status Conference)**

From: 4/21/21,5/12/21

EH\_\_

Docket 33

**\*\*\* VACATED \*\*\* REASON: ORDER APPROVING SETTLEMENT  
AGREEMENT ENTERED 6/1/21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Ghazi Khan Ghori

Represented By  
Jerome S Demaree

**Movant(s):**

Ghazi Khan Ghori

Represented By  
Jerome S Demaree  
Jerome S Demaree

**Trustee(s):**

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Wednesday, September 15, 2021**

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11:00 AM

**6:20-18157 Daniel Edwardo Alarcon and Shelly Danielle Barnes**

**Chapter 7**

**#3.00 Notice of Trustee's Final Report and Applications for Compensation**

EH\_\_

Docket 28

**Tentative Ruling:**

**9/15/2021**

No opposition has been filed.  
Service was Proper.

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

Trustee Fees: \$ 1,098  
Trustee Expenses: \$ 147.97

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

<b>Party Information</b>
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**Debtor(s):**

Daniel Edwardo Alarcon

Represented By  
James P Doan

**Joint Debtor(s):**

Shelly Danielle Barnes

Represented By  
James P Doan

**Trustee(s):**

Robert Whitmore (TR)

Pro Se

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**Hearing Room 301**

11:00 AM

**6:21-10853 Sotero Chandler Elias Ramas, III and Harvy Yojany Ortiz**

**Chapter 7**

**#4.00** CONT. Chapter 7 Trustee's Notice of Motion and Motion Objecting to Debtors' Exemption Claim Under California Code of Civil Procedure § 704.730; Declaration of Todd A. Frealy in Support

**(Status Conference)**

From: 7/21/21

EH\_\_

**[Tele. appr. Walter Scott, rep. Debtors]**

Docket 33

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/10/21 BY ORDER  
ENTERED 9/14/21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Sotero Chandler Elias Ramas III

Represented By  
Walter Scott

**Joint Debtor(s):**

Harvy Yojany Ortiz Campo

Represented By  
Walter Scott

**Movant(s):**

Todd A. Frealy (TR)

Represented By  
Anna Landa

**Trustee(s):**

Todd A. Frealy (TR)

Represented By  
Anna Landa

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**Wednesday, September 15, 2021**

**Hearing Room 301**

11:00 AM

**6:21-11440 Thomas Anthony Martin and Nelly Decena-Martin**

**Chapter 7**

**#5.00 United States Trustee Motion to Dismiss Case for Abuse  
(Motion filed 8/19/21)**

EH\_\_

**[Tele. appr. Ali Matin, rep. United States Trustee]**

Docket 35

**Tentative Ruling:**

9/15/2021

**BACKGROUND**

On March 21, 2021, Thomas Martin & Nelly Decena-Martin (collectively, "Debtors") filed a Chapter 7 voluntary petition. Schedules I identified monthly gross wages of \$9,279.04, total monthly payroll deductions of \$1,207.82, and monthly net income of \$8,071.22. Schedule J identified monthly expenses of \$6,160, leaving monthly disposable income of \$1,911.22. Debtor also filed the Chapter 7 Statement of Your Current Monthly Income, which identified \$9,279.04 in gross wages, and asserted that that amount represented a below-average monthly income for Debtor's family size and state of residence.<sup>1</sup>

Debtors and UST twice stipulated to extend the dismissal and discharge deadlines. The second extension continued the deadlines to August 25, 2021.

On August 19, 2021, UST filed a motion to dismiss case for abuse pursuant to 11 U.S.C. § 707(b)(1)-(3). UST argues that Debtors have understated their income, that a presumption of abuse arises in this case, and that Debtors have not rebutted the

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**CONT... Thomas Anthony Martin and Nelly Decena-Martin Chapter 7**

presumption. Additionally, UST argues that the Court should dismiss the case under the totality of circumstances.

**DISCUSSION**

11 U.S.C. § 707(b)(1) states, in pertinent part, that:

After notice and a hearing, the court, on its own motion or on a motion by the United States trustee, trustee (or bankruptcy administrator, if any), or any party in interest, may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts, or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title, if it finds that the granting of relief would be an abuse of the provisions of this chapter.

11 U.S.C. § 707(b)(2)-(3) provide, in pertinent part:

(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of . . .

(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provision of this chapter in a case in which the presumption in paragraph (2)(A)(i) does not arise or is rebutted, the court shall consider –

(A) whether the debtor filed the petition in bad faith; or

(B) the totality of the circumstances (including whether

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**CONT...**

**Thomas Anthony Martin and Nelly Decena-Martin**

**Chapter 7**

the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse

UST asserts that Debtors have understated their income by \$1,597.81/month, and that the Debtors annualized household income is \$130,522.20, triggering the means test. UST further asserts that its calculations resulted in allowable means test deductions of \$8,374.43, leaving Debtors with \$2,502.42 to fund a Chapter 13 plan.

Based on the evidence presented in the declaration submitted in support of the motion and in the exhibits, specifically Exhibit 1 and Exhibit 6, the Court concludes that UST has made a showing, unrefuted by Debtors, that Debtors case is subject to a presumption of abuse. While 11 U.S.C. § 707(b)(2)(B) allows Debtors to rebut this presumption by demonstrating "special circumstances," Debtors have not attempted to rebut that presumption here. Therefore, the instant case being presumptively abusive, and Debtors not having rebutted that presumption, the Court is inclined to dismiss the case under § 707(b)(1) and (2). The Court need not reach UST's alternative argument that the case be dismissed under § 707(b)(3).

Additionally, the Court notes that Debtor has failed to oppose the motion, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h).

**TENTATIVE RULING**

The Court is inclined to GRANT the motion to the extent of DISMISSING the case under § 707(b)(1) and (2).

**APPEARANCES REQUIRED.**

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**CONT... Thomas Anthony Martin and Nelly Decena-Martin**

**Chapter 7**

<b>Party Information</b>
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**Debtor(s):**

Thomas Anthony Martin

Represented By  
Ivan Trahan

**Joint Debtor(s):**

Nelly Decena-Martin

Represented By  
Ivan Trahan

**Trustee(s):**

Charles W Daff (TR)

Pro Se



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**6:21-13743 Leticia Alejandra Vazquez**

**Chapter 7**

**#6.00** Motion to Avoid Lien Judicial Lien with Franchise Tax Board and if applicable,  
for turnover of personal property  
(Motion filed 8/3/21)

(Placed on calendar by order entered 8/24/21)

EH\_\_

**[Tele. appr. Terrence Fantauzzi, rep. Debtor]**

Docket 17

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Leticia Alejandra Vazquez

Represented By  
Terrence Fantauzzi

**Trustee(s):**

Steven M Speier (TR)

Pro Se

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**Wednesday, September 15, 2021**

**Hearing Room 301**

11:00 AM

**6:21-13841 Florencio Garcia and Areli Garcia**

**Chapter 7**

**#7.00** Motion to Avoid Lien Judicial Lien with Employment Development Department (EDD)

(Placed on calendar by order entered 8/25/21)

**[Withdrawal of Motion filed 9/8/21]**

EH\_\_

Docket 8

**\*\*\* VACATED \*\*\* REASON: WITHDRAWAL OF MOTION FILED  
9/7/21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Florencio Garcia

Represented By  
Kevin Cortright

**Joint Debtor(s):**

Areli Garcia

Represented By  
Kevin Cortright

**Trustee(s):**

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court  
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**Hearing Room 301**

2:00 PM

**6:19-19337 Marc Anthony Capoccia**

**Chapter 7**

Adv#: 6:20-01012 Canyon Springs Enterprises dba RSH Construction Se v. Capoccia

**#8.00** CONT Status Conference RE: [1] Adversary case 6:20-ap-01012. Complaint by Canyon Springs Enterprises dba RSH Construction Services, a California corporation against Marc Anthony Capoccia. false pretenses, false representation, actual fraud)), (67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)), (68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Schlecter, Daren)

From: 3/25/20, 4/1/20, 12/2/20, 2/3/21, 6/30/21, 8/18/21

EH\_\_

Docket 1

**\*\*\* VACATED \*\*\* REASON: STIPULATED JUDGMENT ENTERED  
9/3/21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Marc Anthony Capoccia

Represented By  
Douglas A. Crowder

**Defendant(s):**

Marc Anthony Capoccia

Represented By  
Todd L Turoci

**Plaintiff(s):**

Canyon Springs Enterprises dba

Represented By  
David P Berschauer  
Daren M Schlecter

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**CONT... Marc Anthony Capoccia**

**Chapter 7**

**Trustee(s):**

Larry D Simons (TR)

Pro Se

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**6:20-11280 Phillip Carl Noble**

**Chapter 7**

Adv#: 6:20-01103 Pavon-Arita v. Noble et al

**#9.00** CONT. Pre-Trial Conference RE: [1] Adversary case 6:20-ap-01103. Complaint by Jose Eduardo Pavon-Arita against Phillip Carl Noble. false pretenses, false representation, actual fraud)), (68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Bosse, Gregory)

**(HOLDING DATE)**

From: 7/22/20, 1/13/21, 3/17/21, 6/23/21, 7/23/21

EH\_\_

Docket 1

**\*\*\* VACATED \*\*\* REASON: CASE DISMISSED 8/4/21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Phillip Carl Noble

Represented By  
Todd L Turoci

**Defendant(s):**

Phillip Carl Noble

Represented By  
Todd L Turoci

Juana Julian Noble

Represented By  
Todd L Turoci

**Joint Debtor(s):**

Juana Julian Noble

Represented By

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**CONT... Phillip Carl Noble**

Todd L Turoci

**Chapter 7**

**Plaintiff(s):**

Jose Pavon-Arita

Represented By  
Gregory L Bosse

**Trustee(s):**

Robert Whitmore (TR)

Pro Se